

✓
LAWS FOR THE DISTRICT OF COLUMBIA.

MARCH 3, 1830.

Read, and laid upon the table.

Mr. POWERS, from the Committee for the District of Columbia, to which the subject had been referred, made the following

REPORT:

The Committee for the District of Columbia, to whom was referred a resolution of this House, directing them to inquire into the expediency of providing by law for the appointment of Commissioners to digest and form a code of Civil and Criminal Law for said District, to be submitted to Congress, or such other measures as they may deem best calculated to remedy any existing evils in the present laws of said District, or in the administration thereof, beg leave to report:

That the singular and anomalous condition in which about 50,000 people are placed in this District, has induced your committee to extend their inquiries somewhat perhaps beyond the literal import of the said resolution, but not beyond its supposed spirit and intention, or the general duties of your committee.

The suggestions, views, and facts, which your committee propose to present to the consideration of the House, will relate—

First: To the circumstances which led to, or were connected with, the cession of this District to the Federal Government, and a general history of said District, from that period to the present time.

Secondly: To its present condition, and the evils under which it suffers; and,

Thirdly: To a remedy for those evils.

It is well known, that the First Congress of the Revolution met at Philadelphia, in September, 1774, and there held their sessions until December, 1776, when, in consequence of the approach of the British army, they adjourned and met at Baltimore, in February, 1777, where they remained but seven days, and then adjourned, to meet at Philadelphia again in March following.

On Sunday, the 14th of September, 1777, Congress resolved, that, if it should be obliged to remove from Philadelphia, Lancaster should be the place where they should meet. A few days after, a letter was received from Colonel Hamilton, which satisfied Congress of the immediate necessity of leaving Philadelphia; and, in pursuance of their resolve, they met at Lancaster on the 27th of September, and, on the same day, adjourned to York, where they met on the 30th, and remained until the latter part of June, in

the year following; when, having received information from General Washington that the British had left Philadelphia, Congress adjourned, to meet again at that place, on the second day of July, 1778.

On the 4th of June, 1783, it was "*Resolved*, that copies of the act of the Legislature of Maryland, relative to the cession of the City of Annapolis to Congress, for their permanent residence, and also copies of the act of the Legislature of New York, relative to the cession of the town of Kingston for the same purpose, together with the papers which accompanied both acts, be transmitted to the Executives of the respective States; and that they be informed by the President, that Congress have assigned the first Monday in October next, for taking the said offers into consideration."

On the 21st of June, it was resolved by Congress, "That the President and Supreme Executive Council of Pennsylvania be informed, that the authority of the United States having been this day grossly insulted by the disorderly and menacing appearance of a body of armed soldiers about the place within which Congress were assembled, and the peace of this city being endangered by the mutinous disposition of said troops in the barracks, it is, in the opinion of Congress, necessary that effectual measures be immediately taken for supporting the public authority."

It was further resolved, "That the committee be directed to confer, without loss of time, with the Supreme Executive Council of Pennsylvania, on the practicability of carrying the preceding resolution into effect; and that, in case it should appear to the committee, that there is not a satisfactory ground for expecting adequate and prompt exertions of this State, for supporting the dignity of the Federal Government, the President, on the advice of the committee, be authorized and directed to summon the members of Congress, to meet on Thursday next at Trenton or Princeton, in New Jersey, in order that further and more effectual measures may be taken for suppressing the present revolt, and maintaining the dignity and authority of the United States.

"*Resolved further*, That the Secretary of War be directed to communicate to the Commander-in-Chief the state and disposition of said troops, in order that he may take immediate measures to despatch to this city, such force as he may judge expedient, for suppressing any disturbances that may ensue."

No effectual measures having been taken to secure the safety of Congress in Philadelphia, and the clamors of the soldiers for pay not being appeased, Congress assembled at Princeton on the 30th of June, upon the summons of the President.

After various negotiations between a committee on the part of Congress, and the authorities of Pennsylvania, in relation to the above subject, on the 1st of September, 1783, the delegates from that State laid before Congress the following resolutions of the General Assembly of Pennsylvania:

"*Resolved, unanimously*, That, until Congress shall determine upon the place of their permanent residence, it would be highly agreeable to this House if that honorable body should deem it expedient to return to, and continue in, the city of Philadelphia; in which case they offer to Congress the different departments in the State House, and the adjacent buildings, which they formerly occupied, for the purpose of transacting the national business therein.

"*Resolved, unanimously*, That this House will take effectual measures to enable the Executive of the State to afford speedy and adequate support and protection to the honor and dignity of the United States in Congress,

and the persons composing the Supreme Council of the nation, assembled in this city.

“Resolved, unanimously, That, as this House is sincerely disposed to render the permanent residence of Congress, in this State, commodious and agreeable to that honorable Body, the delegates from this State be instructed to request that Congress will be pleased to define what jurisdiction they deem necessary to be vested in them, in the place where they shall permanently reside.”

Congress, on the 6th of October, 1783, *Resolved*, “That the question be taken in which State buildings shall be provided and erected for the residence of Congress, beginning with New Hampshire, and proceeding in the order in which they stand.” And the question on each State passed in the negative.

Previous to this a committee had been appointed, of which Mr. Madison was a member, “to consider what jurisdiction may be proper for Congress in the place of their permanent residence.” On the 7th of October it was resolved to erect buildings, for the use of Congress, near the banks and falls of the Delaware river, provided a suitable district could be obtained, &c.

On the 21st of October it was resolved as follows:

“Whereas there is reason to expect that the providing buildings for the alternate residence of Congress in two places, will be productive of the most salutary effects, by securing the mutual confidence and affection of the States:

“Resolved, That buildings be likewise erected for the use of Congress at or near the lower falls of the Potomac, in Georgetown: *Provided*, A suitable district on the banks of the river can be procured for a Federal town, and the right of soil and exclusive jurisdiction, or such other as Congress may direct, shall be vested in the United States; and that, until the buildings to be erected on the bank of the Delaware and Potomac shall be prepared for the reception of Congress, their residence shall be alternately, at equal periods of not more than one year nor less than six months, in Trenton and Annapolis; and the President is hereby authorized and directed to adjourn Congress on the 12th day of November next, to meet at Annapolis on the 26th day of the same month.”

On the 26th day of April, 1784, it was *“Resolved*, that the President be, and he is hereby, authorized and directed to adjourn Congress, on the 3d of June next, to meet the 30th of October next at Trenton,” where they accordingly assembled.

On the 20th of December, it was *“Resolved*, That it is inexpedient for Congress to erect public buildings for their accommodation at more than one place.”

On the 23d, Commissioners were authorized to be appointed, with full power to lay out a District, of not less than two nor more than three miles square, on the banks of either side of the Delaware, and purchase such part of the soil as they might judge necessary, and to erect buildings for the use of Congress and the Executive offices.

The same day, it was resolved, that Congress should meet in the city of New York, until the public buildings should be prepared, and accordingly assembled there on the 13th January, 1785; and, in February after, the three Commissioners were appointed, pursuant to the ordinance of the 23d December previous.

It does not appear from the journals of Congress, that any further proceedings were had under the said ordinance.

The Constitution of the United States having been ratified, it was resolved, on the 4th of August, 1788, that the first meeting of Congress, under said Constitution, should be at Baltimore; but, in two days after, New York was substituted for Baltimore, and this was confirmed by another resolution of the 12th of September following.

Here terminated the discussions of the old Congress in regard to the seat of Government. These discussions had occupied much of the time of that memorable body, and the almost numberless resolutions, motions, debates, and votes, in relation to that question, as appear from the journals, show the exceeding difficulty and agitating nature of the subject.

The Convention which framed the Constitution, sensible of the importance of a permanent seat of Government, inserted, in the 8th section of the 1st article thereof, a clause giving Congress power to exercise exclusive "legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as might, by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States."

The proceedings under the Constitution commenced at New York, March 4th, 1789. In May following, acts of the Legislatures of Virginia and Maryland were presented to Congress, each offering to its acceptance, ten miles square of territory for a permanent seat of Government, reserving to the States the right of legislating until assumed by Congress; afterwards, petitions for its location in various other places and States were also presented. On the 27th of August, 1789, the following resolution was offered: "*Resolved*, that a permanent residence ought to be fixed for the General Government of the United States, at some convenient place, as near the centre of wealth, population, and extent of territory, as may be consistent with convenience to the navigation of the Atlantic Ocean, and having due regard to the situation of the Western country."

In debate upon this resolution, it was said by a member, "that the question now before the House, is a grand link in the chain of the Federal system; the peace of the United States depends as much upon this as on any other question which can come before Congress." Another remarked, "that the idea of a permanent seat of Government was not strictly true; as population increases, and as men of new principles and views take their seats in Congress, this permanent seat may be altered at pleasure." It was remarked by a third, that "the existence of the Union depended upon this subject." A fourth stated, "that no question would so fully try the temper of that body, as the one under consideration." A fifth observed, "I believe it will involve as many passions as can reside in the human heart."

So much had the old Congress been agitated with this question, that the new seemed to approach the subject with awe.

On the 4th of September, and after high debate upon various propositions in Committee of the Whole, in the House of Representatives, it was "*Resolved*, as the opinion of this committee, that the permanent seat of the Government of the United States ought to be at some convenient place on the East bank of the Susquehannah, in the State of Pennsylvania." On the next day this resolution, and that of the 27th of August, were adopted by the House; and, on the 14th of September, a bill was introduced to carry them into effect. In the course of debate, Mr. Madison said, "I now verily believe that, if a prophet had started up in the Virginia Convention, and foretold

the proceedings of this day, that State would not now be a party to this Constitution." He insisted, "that the centre of population would continually advance in a Southwestern direction, and that the Potomac would be a much more facile and effectual communication with the Western country" than any other. After a great deal of warm discussion on the bill, and the various amendments which were proposed to it, it was passed on the 21st of September, by a vote of 31 to 17; and, on the 26th, it was returned from the Senate, with an amendment, striking out all respecting the Susquehannah, and inserting a clause fixing the permanent seat of Government at Germantown. The House, on motion of Mr. Madison, added a proviso, that nothing therein contained should be construed to affect the operation of the laws of Pennsylvania within the said district of ten miles square, "until Congress otherwise provide by law," when the bill passed 31 to 24; but, on its being returned to the Senate, was further amended, and then postponed until the next session.

On the 11th June, 1790, the House passed a resolution to hold the next session at Baltimore, but the Senate postponed it. On the 1st July, after a great controversy, the Senate, by a vote of 14 to 12, passed a bill locating the seat of Government at this place; which also provided that Congress should hold its session at Philadelphia until the year 1800, and that then the Government should be removed to, and remain permanently at, this place. The bill also provided that commissioners should be appointed, who, under the direction of the President, were to define the limits of the district, purchase lands on the East side of the river, and erect buildings.

On the 6th July, 1790, this bill was passed by the House of Representatives, without amendment, by a vote of 32 to 29, and was approved by the President on the 16th of the same month.

Thus ended a controversy in regard to the seat of Government, which had long and deeply agitated both the old and new Congress, and the Republic.

On the 15th of June, 1800, the public offices were opened here, where Congress assembled on the 22d of November following, when President Adams, in his speech at the opening of the session, made the following impressive remarks: "I congratulate the people of the United States on the assembling of Congress at the permanent seat of their Government, and I congratulate you, gentlemen, on the prospect of a residence *not to be changed*. It is with you, gentlemen, to consider whether the local powers over the District of Columbia, vested by the Constitution in the Congress of the United States, shall be immediately exercised. If, in your opinion, this important trust ought now to be executed, you cannot fail, while performing it, to take into view the future probable situation of the Territory, for the happiness of which you are about to provide. You will consider it as the Capital of a great nation, advancing, with unexampled rapidity, in arts, in commerce, in wealth, and in population; and possessing, within itself, those resources, which, if not thrown away, or lamentably misdirected, will secure to it a long course of prosperity and self-government."

To this, the House of Representatives replied, that "the final establishment of the seat of the National Government, which has now taken place in the District of Columbia, is an event of no small importance in the political transactions of our country. A consideration of those powers which have been vested in Congress over the District of Columbia, will not escape our attention; nor shall we forget, that, in exercising these powers, a regard

must be had to those events which will necessarily attend the Capital of America."

The sequel of this report will show how far these views have been realized. Before proceeding further, your committee cannot refrain from making a few general remarks upon the policy of this measure, which seems to have been a matter of so much joyful congratulation. During its progress to a final termination, the protection of Congress, and the personal security of its members, the *permanent* location of the General Government, and its dignity, seem to have swallowed up every other consideration. The dangerous tendency, in our political system, of a local central Government, like that provided for the District of Columbia, was not, as appears to your committee, duly considered.

By the Federal Constitution, a new and untried scheme of government was adopted. It had been argued by the most liberal political writers in Europe, that a Republican Government could not long endure, which embraced great extent of territory, variety of soil and climate, and the consequent diversity of interests, habits, views, and pursuits. But a wonderful combination of events created a state of things in this country, favorable to a new scheme of Republican Government, of which Europeans had formed no just conceptions. Separate but adjoining provinces became independent States, which united in forming a General Government, embracing the whole. This was done with a design that the State Governments, under the influence of their own peculiar climate, habits, and interest, should manage their local concerns in their own way, while, free from jarring interests, the General Government should exercise a control over all matters *purely national*, for the general welfare, and in which the interest of the whole should be identified, notwithstanding the diverse pursuits and local interests and feelings of the several parts. In this way, it was supposed that the dangers to a republic, arising from extensive territory, and variety of climate and local interests, would be avoided; and yet the wise men of that time do not seem fully to have considered the danger of adding to all this delicate machinery of Governments within a Government, a sort of local general central Government, involving in itself many of the evils of a vastly extended republic, at least so far as relate to the various habits and views of its legislators.

Another anomalous feature in this local Government renders it still more surprising that it should have been established—a Government *without representation from the people governed*. What led to the independence of the United States, but resistance to this principle? and yet, how could it so soon have been adopted by the very fathers of the Revolution? Nothing but the greatest fears of insecurity to Congress and public officers, could have led to this unfortunate result. But we must take things as we find them; this local Government is upon our hands, and your committee will proceed to consider what has been done in relation to it, and what further ought to be done.

On the 27th February, 1801, Congress passed the act, entitled "An act concerning the District of Columbia;" the first section of which, declares, "That the laws of the State of Virginia, as they now exist, shall be and continue in force in that part of the District of Columbia which was ceded by the said State to the United States, and by them accepted for the permanent seat of Government; and that the laws of the State of Maryland, as they now exist, shall be and continue in force in that part of the said District which was ceded by that State to the United States, and by them accepted, as aforesaid."

The second section forms the Virginia side of the District into the county of Alexandria; and the Maryland side, including the cities of Georgetown and Washington, into the county of Washington, and places the Potomac river in the jurisdiction of both those counties. The third section institutes a court of three judges, and declares "that the said court and the judges thereof shall have all the powers by law vested in the Circuit Courts and the Judges of the Circuit Courts of the United States. The fourth section appointed four terms for each county in a year; but, afterwards, they were reduced to two terms. The fifth section is as follows: "That said court shall have cognizance of all crimes and offences committed within said District, and of all cases, in law and equity, between parties, both or either of which shall be residents, or be found within said District; and, also, of all actions or suits of a civil nature, at common law or in equity, in which the United States shall be plaintiffs or complainants; and of all seizures on land or water, and all penalties and forfeitures made, arising, or accruing, under the laws of the United States."

The act also provides for the appointment of a clerk, marshal, and district attorney, and for appeals to the Supreme Court. The 11th section authorizes the appointment of as many justices of the peace, for five years, by the President, (by and with the advice and consent of the Senate) as he may think expedient; and they are invested with the same powers, as individual magistrates, as they have a right to exercise in the respective counties under the respective laws of Maryland and Virginia; and shall have cognizance of personal demands to the value of twenty dollars, which, by a subsequent act, was increased to fifty dollars, and a jury trial allowed in all cases above the former sum. The 12th section institutes an Orphans' Court, and provides for appeals therefrom to the Circuit Court.

By this act, Congress assumed the government of this territory; for ever extinguished all legislative jurisdiction of the States to which it had belonged; and so executed that power of exclusive legislation vested in Congress by the Constitution, as, in the opinion of many, to have placed it beyond the reach of Congress to recal. Your committee cannot forbear to express the opinion, that this was one of the most unfortunate acts which ever was, or can be, passed by Congress, within the pale of the constitution.

They believe it would have been much wiser and safer, if Congress had never exercised that power, but left it to the respective States, at all events till a necessity for the assumption of its exercise had occurred, which, it is believed, would never have happened.

Since that period, numerous laws have been passed by Congress, relating to city charters, public buildings, bank and bridge companies, to the militia, to the incorporation of various societies and institutions, and to other local matters; but there have not been many essential changes in the general laws of the District, nor in their administration. It appears that one part of this District is governed by the laws of Virginia, and the other by those of Maryland, as they existed nearly thirty years ago—laws, too, which had been accumulating for generations, many of whose sanctions are only suited to the barbarous ages, and which have long since been wisely abrogated by the respective States, but are still in force in this District.

This will, in some measure, be illustrated by the following abstract of the criminal statutes of Maryland, now in force here.

1720. Ch. 25.	Burning a court house, punishment	-	-	death.
	Arson of a mansion house,	-	-	death.

1729. Ch. 4, sec. 2.	Petit treason, murder, and arson, by negroes,	death.
3.	Breaking into a shop, store, or warehouse, not contiguous to, or used with, a mansion, and stealing goods to the value of five shillings,	death.
1737. Ch. 2, sec. 2.	Breaking tobacco or other out house, and stealing to the value of five shillings,	death.
4,	Stealing a boat or a negro,	death.
1744. Ch. 5, sec. 3.	Burning tobacco, or tobacco house with tobacco in it,	death.
Ch. 20, sec. 1.	Horse stealing,	death.
sec. 2.	Burning a ship, sloop, or boat,	death.
1751. Ch. 14, sec. 2.	Slaves <i>consulting</i> to raise an insurrection, or to murder or poison any person, or to burn a house,	death.
	Slaves who shall <i>attempt</i> to burn any dwelling house, or out house contiguous, or any other house in which any person shall be, or any goods, tobacco, Indian corn, or fodder,	death.
1777. Ch. 1, sec. 1.	Destroying, or burning, or conspiring so to do, any magazine of provisions, or military or naval stores of the United States or the State,	death.
1793. Ch. 57. sec.	Mayhem,	death.

Without going into details, it is believed that the existing criminal laws in the county of Alexandria are of about the same sanguinary character as the above; and, it is remarked by several intelligent gentlemen of that county, that, in consequence, many offences are suffered to go either unpunished, or punished in such manner as amounts, in effect, to no punishment.

While, during the last thirty years, the States of this Union have been making the most rapid advances in civil and criminal jurisprudence, this devoted territory has been held stationary, and the light of improvement in political science has not been permitted to shed its benignant rays upon this unfortunate and depressed people. Still they have struggled on, and exerted more energy, exhibited more ambition, and greater enterprise, than could have been reasonably expected, under their circumstances.

In the year 1800, there were but 14,000 inhabitants in this District; in 1810, 24,000; in 1820, nearly 34,000; and, at this time, probably not far from 50,000. Their enterprise and public spirit have probably carried them too far, in reference to their means, in local improvements, and brought upon themselves a very severe weight of taxation; yet they support schools, encourage learning, and patronize charitable and benevolent institutions, to an extent highly creditable to them. Independent of all similar establishments, the worthy Catholics alone furnish a gratuitous education to several hundred poor children annually. Still, notwithstanding all the efforts of the most active, moral, and industrious portion of the people, there is another class, a sort of floating population of paupers and idlers, as degraded as they are indolent and profligate.

Your committee, having thus given an outline of the circumstances which led to the location of the seat of Government in this District, and its general history from that period, will now proceed to state more particularly its present condition, in regard to the laws, police, and administration of justice.

With a view to obtain the most ample and accurate information on this subject, within their reach, your committee, early in the present session, addressed a circular letter, containing a series of interrogatories concerning the affairs of this District, to the judges, members of the bar, and other intelligent gentlemen, whose answers reflect equal credit upon their intelligence and patriotism, and which are attached to this report. From these valuable documents, and other sources of information, your committee proceed to state some of the prominent evils to which the people are exposed, and beg leave to refer to those documents, for a mass of interesting facts and opinions, which cannot be embraced in this report; and although, as might have been expected, they are somewhat conflicting, yet they are not less worthy of examination on that account.

From the organization, jurisdiction, and proceedings of the Circuit Court, flow many of the most serious evils which afflict this District. This court tries all criminal actions, from the most trifling assault and battery to treason and murder; all cases in equity, all civil actions, where the demand is over fifty dollars; appeals from Justices' courts, where the judgment exceeds five dollars, and where the cases are not tried by a jury; and has original jurisdiction in all cases whatsoever, arising from matters *ex delicto*. The terms of court are only semi-annual, when the most incongruous mass of business which it is possible to conceive, is brought before it, and produces that confusion, delay, and consequent expense, which operate, in many cases, not only as a denial of justice, but occasion the grossest oppression.

At one time, the court will be engaged in trying a case of trifling trespass or assault, then in a case of murder, which may be followed by an important civil cause; then comes on a case of a petit larceny, which is succeeded in turn by a complicated chancery suit; from which the court gravely proceed to the trial of a five dollar appeal from a justice of the peace.

The nature and extent of criminal business before this court, will be seen by the following facts:

The appearance docket of criminal cases at the last December term, in Washington county, contained one hundred and thirty presentments and indictments; of which, fifty-three were for assault and battery, forty-one for larceny, seven for gaming, two for swindling, seven for riot, eight for retailing liquors without licence, three for murder, one for passing counterfeit money, one for extortion in a magistrate, two for abusive language, one for trying to persuade a negro to run away, one for manslaughter, one for threatening to stab, and one for resisting a constable.

Besides those on the criminal appearance list, there were twenty-three on the trial docket; eighteen for nuisance or gaming; three for assault and battery; one for shooting, and one for robbery; so that the time of the court was more occupied with matters in behalf of the United States, than with the business of suitors, which was postponed.

It is not the practice, here, for the court to take notes of testimony, and sum up the evidence to the jury, and to advise them of the law and its application to the testimony; a practice which, however much objected to by some, is thought by your committee, at least, favorable to the despatch of business, if not to the due administration of justice. The number of civil causes brought before this court, of so extensive jurisdiction, and in a place of so much trade, litigation, and commerce, as this, must be very considerable.

It is stated to, and believed by, your committee, that the chancery business of the court has increased very considerably during the last few years. The probability is, that it will continue to increase. From the amount of business on the common law side of the court, it is seldom that the chancery causes can be argued; and much of the business that is performed, is transacted without argument.

Each judge has the power, in vacation, to grant an injunction, but it cannot be dissolved except by the court in term time; the consequence is, that, sometimes, in the most flagrant cases, an injunction will continue for several years, and the party, whose rights are thus withheld, can have no remuneration for his losses.

There being no masters in chancery, that part of the business which is usually performed by them, is brought before the court, and discussed, or decided without full discussion, by the full court. No judge, during vacation, has power to order publication against absent defendants; to ratify *nisi*, or finally, sales made by trustees; to confirm an auditor's report, or order distribution of assets in the hands of a trustee. The consequence is, that, whenever a party chooses to contest a case, he is furnished with opportunities at every stage of it to delay a final decree. Losses are sustained by creditors, from the money to which they are entitled lying in the hands of the parties who are to pay it, without adequate security, or in those of trustees, without carrying interest, until the necessary orders can be obtained at the regular terms. Cases sometimes occur in which large sums of money are thus tied up in the hands of a trustee, waiting the confirmation of a report and order for distribution four or five years.

From a court thus constituted, is it reasonable to expect such an administration of justice as the people have a right to demand? The last grand jury of this county took it upon themselves to say on this subject, (what indeed must appear evident) that there are great evils in the delays of justice, and the great expense to which individual suitors are put by the frequent alternate trials of a criminal, a law, and a chancery case.

It will be observed, that, during the time which is occupied by the trial of civil and equity cases, all the witnesses in behalf of the United States are kept waiting, at the expense of \$1 25 each, per day; to which should be added jurors' fees and various other expenses. Your committee may, as well in this place as any other, express their opinion, that witnesses' fees are much too high, and are of very dangerous tendency, independent of the enormous expense to suitors and to the Government, which it occasions.

The long time intervening between the sessions of court, produce great hardships, both in civil and criminal cases; and in the latter, under a law of this District, which requires a witness to procure security for his appearance at court, it is stated that, some terms ago, a person who could not give such security, was put in gaol, where he remained suffering for nearly six months, in a matter where the principal, if guilty, would not have been confined more than ten days.

In another instance, a person just landing on the wharf from an Eastern vessel, happened to witness some trifling assault and battery, was summoned before a magistrate, and being a stranger, and unable to give security, he was committed to gaol with the culprit, where they both remained more than four months; and although the defendant was convicted, yet the court, believing he had already suffered more than merited punishment, discharged him with the witness. So that both endured the same imprisonment, and were discharged at the same time.

Another similar instance has been stated to your committee, where a wood boatman was assaulted on his boat, by some piratical fellows, to whom he administered summary justice to his own entire satisfaction, and drove them off. Yet the third person brought the subject before a magistrate, who summoned the boatman as a witness, who, being also a stranger, could not give bail, and was thrust into prison, where he was kept for months; and, when discharged, his boat and property were lost or destroyed. It will be found, in a great proportion of cases, that persons committed for trial are subjected to unreasonable imprisonment, before it is known whether they are innocent or guilty.

In civil cases, also, there are serious hardships. So unfrequent are the terms of court, and such its jurisdiction, practice, and course of proceeding, that it takes two years and a half to collect an indisputable debt.

These cases are presented, in order to show the hardships which are suffered not only from severe laws, but from the organization and proceedings of the Circuit Court; and to render more palpable and striking the necessity of lessening and separating its duties, and of dividing its multifarious jurisdiction to some extent at least, with other tribunals, which in the opinion of your committee ought to be established.

But facts are so fully developed, by the accompanying documents, in reference to this subject, that your committee will now pass from this branch of their inquiry.

Your committee will next advert to the character and proceedings of justices of the peace, whose mode of appointment, tenure of office, and jurisdiction, have already been stated. There are, in the county of Washington, twenty-five of these justices. This formidable corps of subordinate magistrates, is aided in the administration of justice by about thirty-five constables, (who are appointed by the Circuit Court) while in Baltimore, which contains a population of more than eighty thousand, there are only ten constables devoted to justices' courts. With such a swarm of officers, canvassing for business, as it appears many of them do, the most disastrous system of litigation and petty oppression of the poor, must be the inevitable consequence; and that such is the fact, is abundantly proved to your committee.

A single magistrate, and one of the most respectable, during the last year, issued 4,000 warrants. For proof of these facts, we again refer to the accompanying documents, and to the intelligent gentlemen of this county. We might appeal to the suffering poor, to whom no scourge is so great a curse as petty and legalized oppression.

It is the practice to issue a warrant, and arrest in all civil cases without oath; and a cause commenced before one magistrate is triable before another.

One of the Heads of Department was recently called upon with such a process; and after his attorney had proved to the satisfaction of a jury that the suit was utterly groundless and vexatious, the same magistrate issued another warrant in the same case.

When judgments are recovered before a justice of the peace, he will not receive the money, because he is allowed no compensation for doing it; and where there is a delay of execution, it is the practice for the plaintiff to take a certificate of the judgment, and sell it to some one of a class of men who are in the habit of shaving (as it is called) such certificates. He may sell this to another, and he to a third; and while the defendant is in pursuit of the holder of the judgment, with a view to pay it, the certificate may be handed to a constable, who will go to some other magistrate than the one by

whom the judgment was rendered, take out an execution, and pounce upon the defendant with a bill of costs, before he can find the last *shaver*, to whom only, or the constable, he can pay the money.

Your committee beg leave further to illustrate the character and proceeding of justices' courts by some cases which have been stated to them.

The Circuit Court has given an opinion (and which is hereto annexed) that in no case where there is a jury trial before a justice of the peace, can it be brought before the Circuit Court for a re-hearing; that the justice in such cases acts ministerially—is bound to enter the verdict of the jury as the Clerk of the Circuit Court is bound to enter its judgments; that the Justice has no right to say what evidence the jury shall hear, or to instruct them as to the law; that he has no discretion, no will, no choice, but is bound by law to enter up judgment, according to the will of others.

And this decision of the Circuit Court, whether right or wrong, cannot be reviewed by the Supreme Court, because the amount is not sufficient. But the effects of this decision are shown by the following cases, which are stated to be common.

A plaintiff recovers a judgment before a justice, for any sum between twenty and fifty dollars, (in which only jury trials are allowed;) the defendant being dissatisfied pays the judgment, goes to the same or another justice, takes out a warrant to recover back the money, intercedes with a friendly constable to summon for him a *suitable* jury, who, it is seen, are placed above all law, brings his cause before them, and recovers back the amount of the first judgment. The plaintiff also can pursue a similar course, and there is nothing to prevent such a course of proceeding *ad infinitum*.

It is stated to your committee that trials are sometimes determined, which produce the most singular and ludicrous combinations. An instance has been known where one brought an action for a *specific article*, over which the magistrate had no jurisdiction, has sustained the claim and recovered a different article—the money; another, where one who had made up certain work, sued for the value before delivery, recovered a judgment, with the additional order to hold the property as security for the debt; so that the plaintiff had the judgment and the goods, while the defendant, who received nothing, was obliged to pay the debt. In a case tried by a jury, where an action was brought upon a promissory note two months before it became due, the Jury brought in a verdict for the demand, with a stay of execution until the note should become due; and the magistrate, under the above decision, had no alternative but to record a judgment accordingly.

In regard to the general character and conduct of the magistrates and constables, as above described, it ought to be stated that there are honorable exceptions.

It has been stated by respectable persons, and is believed by your committee, that a constable in this city has received, to his own use, in a single year, from two to three thousand dollars of fines paid by gamblers.

On the subject of the Orphans' Court there appears to be some diversity of opinion; but the committee are satisfied it is susceptible of great improvement. The compensation of the judge of that court, in the county of Alexandria, appears to be too small; and the mode of paying him, and also the judge of that court, in this county, is deemed objectionable. The former is allowed a salary of \$ 500 a year, raised by a tax on the people, imposed by the Levy Court, and the latter is paid a per diem allowance of \$ 5 00, when engaged in judicial duties, which is also raised by a tax.

Your committee will now notice a very few of the laws which seem to call for the exercise of the remedial power of the Legislature.

As some allusion has already been made to the criminal laws, it may suffice to say, in general terms, that the entire code is so lamentably defective as to require immediate revision.

By the humane and patriotic exertions of a gentleman who was formerly a member of this House from Pennsylvania, aided by the cordial support of many who are still members, Congress was induced to provide a penitentiary in this District for the confinement of criminals, with a view to those mild and humane principles of punishment which distinguish the present enlightened age, and which look as well to the moral culture and improvement of convicts as to their restraint and punishment. That institution, although incomplete, is ready for the reception and employment of convicts, but there is no law authorizing that mode of punishment; and, in consequence of this, offenders are punished by public whipping and imprisonment in the county jails, under the most loathsome and demoralizing circumstances. On this subject we beg leave to refer to the interesting report of the inspectors of said penitentiary, lately presented to this House.

The laws relating to slaves require particular attention, and will hereafter be made a distinct subject of inquiry, when your committee come to act upon the petitions referred to them on that subject.

There is no law which allows bail, in civil cases, to surrender his principal, except during the sitting of the court, by reason of which the bail often becomes fixed when the principal is in the District; and, in one instance, bail became fixed and compelled to pay a large sum of money, when his principal died in jail, because he could not be *duly* surrendered before his death.

There is no law which allows the proof of deeds for registration, executed by foreign grantors, except by a subscribing witness. A citizen of this District cannot sue a citizen of a State, in the Supreme Court, because he is not himself a resident of any State. The judicial proceedings of this District cannot be evidence in the State courts, because it is not a State.

At least, so far as regards this city, there is no efficient police. Gaming, tumults, and riots, are frequently unsuppressed, and go unpunished; and even more flagrant offences are committed openly and with impunity.

There is no adequate provision for vagrant paupers, who pour into the city from all quarters, as a place of general rendezvous, and are seen at almost every corner, in the character of street beggars.

There is no efficient restraint upon gaming and abuses in retailing ardent spirits, which are among the worst evils in this community; many of these matters, however, are subjects of municipal regulation, and fall under the special jurisdiction of corporate authorities. But your committee forbear to enumerate the almost numberless cases which might be stated, and which call for legislative relief; they must be apparent, from the general view which has been given of the history of this District.

It will not have escaped observation, that, in this small territory, two entirely distinct systems of laws are administered by the same court; laws which are interwoven with, and buried up in, the legislative rubbish which has been accumulating in the two adjoining States for more than one hundred years.

Another and more general view of the condition of this District may, with propriety, be hinted at. What do foreigners expect to find in this little territory, over whose destinies they suppose the concentrated wisdom of

the nation presides? Will they not suppose that such a favored spot must exhibit the principles and effects of a Republican Government, to the greatest possible advantage, and afford the best practical argument in their favor, which our country can produce? Only ten miles square, placed under the special guardianship of the President of the United States, and the American Congress; surely it may be supposed that this *only* child of the Federal Government will be nursed with sedulous care, and grow up a perfect model of all that is valuable in Government, and pure in morals. If such are the impressions of a foreigner, who can measure his disappointment, when he comes to witness the political desolation which pervades this territory, and finds his anticipations but an illusory dream? Is he a friend to free Governments, his heart will sicken; and, if not, he would exult over our degradation.

In view of all these facts, your committee cannot avoid coming to the conclusion, that they call for the prompt and efficient action of Congress; and that the prosperity of this people, the reputation of the country, the character of our Republican Government, and the general cause of liberty, are deeply concerned in the result.

For these multiplied and complicated evils what is the remedy?

If it were practicable, your committee would not hesitate to recommend an immediate restoration of this District to the States from which it was taken, and the people to the enjoyment of those political rights and privileges of which they have been deprived, reserving to the Federal Government all due control over the public property, and, if thought requisite, such other means of self protection as might be devised. While this would be the best, it is perhaps the only effectual remedy which can be proposed. This proposition was made in Congress in less than two years after its assumption of the Government of this District.

On the 8th of February, 1803, Mr. Bacon, a member of the House of Representatives from Massachusetts, offered the following resolutions:

“Resolved, That it is expedient for Congress to re-cede to the State of Virginia the jurisdiction of that part of the territory which was ceded to the United States by the said State of Virginia, by an act passed the 3d of December, 1789.

“Resolved, That it is expedient for Congress to re-cede to the State of Maryland the jurisdiction of that part of the territory of Columbia which was ceded to the United States by the said State of Maryland, by an act passed the 19th of December, 1791: Provided, the said States should consent and agree thereto.”

These resolutions were immediately referred to a Committee of the Whole House; and the reasons urged in their favor were,

1. That exclusive jurisdiction is not necessary nor useful to the Government.

2. That it deprives the inhabitants of the District of their political rights.

3. That much of the time of Congress was consumed in legislating for the District.

4. That the government of the District is expensive.

5. The incompetency of Congress to legislate for the District, because the members are strangers to its local concerns.

6. It is an example of a Government without representation: an experiment dangerous to the liberties of the States.

In answer to these reasons it was said,

1. That the Constitution and the acts of cession of Virginia and Maryland, and the act of Congress accepting the cession, all contemplate the exercise of exclusive legislation by Congress; and its usefulness, if not its necessity, is inferred from the inconvenience which was felt by the Congress of the Confederacy for the want of it.

2. That the people themselves, who are said to be deprived of their political rights, have not complained, and do not desire a re-cession. The evil may be remedied by giving them a representation in Congress, when the District shall become sufficiently populous, and in the mean time a local Legislature. If they have not political rights, they have great political influence.

3. The trouble and expense of legislating for the District will not be great, and will diminish, and may in a great measure be avoided by a local Legislature.

4. That Congress, having accepted the cession, cannot divest itself of the right of exclusive jurisdiction, and retain its seat of government.

5. That Congress cannot re-cede the inhabitants, without their consent.

6. If the District should be re-ceded, there would be no obligation upon the Government to remain in this place.

7. By accepting the cession, and exercising exclusive legislation, a contract was entered into between the ceding States, the Congress and the people of the District, which could not be dissolved but by the consent of all parties.

After a debate of two days, the resolutions were lost, by a vote of 66 to 26.

Propositions for re-ceding this District, or parts of it, have since been repeatedly made to Congress, and the last, it is believed, in the year 1820, which proposed to re-cede all except the city of Washington. But the House of Representatives, in which the proposition was made, refused to consider it. It presumed a re-cession cannot be made (if made at all) without the consent of Maryland and Virginia, whose views on the subject are unknown to your committee; but the recently revised Constitution of Virginia may, perhaps, interpose a new obstacle.

If it is doubtful, then, whether a re-cession of this territory would not be unconstitutional and impracticable, your committee beg leave to inquire as to the propriety of establishing a local Legislature, as another remedy for existing evils. This plan has also been frequently before Congress. It has been, or may be, urged, in favor of this measure, that Congress, without neglecting the business of the nation, could not devote that time to legislation for this District which its rights and interests imperiously demand; that although it is small, yet its inhabitants require as full and perfect a code of laws as the largest community—the same protection of life, liberty, and property; and that the laws for this purpose must be nearly as diversified and extensive for a small community as for the largest; that a local Legislature would give to the people, to some extent, the right of self-government, the exercise of the elective franchise; and that the enjoyment of these political privileges would tend to create a spirit of enterprise and ambition, so essential to their prosperity, reputation, and happiness. To these, and various other arguments in favor of a local Legislature, it has been, or may be, answered, that Congress cannot delegate to such a body that power of exclusive legislation which, by the Constitution, is vested in Congress alone, any more than the Legislature of a State could create another Legislature for the same purpose;

and that, in neither case, can any portion of legislative power be delegated any farther than what simply relates to mere police and municipal regulations. That, therefore, if a legislative council should be established, its acts would not be binding until they had received the direct sanction of Congress, and would be nothing more than the recommendations of a respectable body of men, like that of commissioners or a committee of Congress. That the minority of the local Legislature, and a portion of the people, would always be dissatisfied with acts of the majority, and appeal to Congress against them; that in this way, angry disputes and conflicts would ensue, and the time of Congress would be more occupied than if it should originate all the necessary laws for the District. This idea is further enforced by the suggestion, that the various rival interests of the three cities of the District, which would be represented in a local Legislature, would tend to sharpen and increase these conflicts.

The last proposition for a local Legislature was presented to Congress, in 1825, by the Joint Committee of both Houses for the District of Columbia; but the people themselves were opposed to it, and it failed.

In view of all the circumstances, your committee will not venture to recommend either a re-cession of this territory or the establishment of a local Legislature.

They will next inquire, whether the committees of both Houses of Congress for the District, in addition to their other legislative duties, can devote sufficient time to the revision of the laws and the civil and criminal jurisprudence of this territory as is manifestly indispensable.

Your committee think not, and will offer no further reason than the facts above stated, and the past experience on this subject.

Upon a careful view of the whole ground, your committee are driven to the conclusion, that the best remedy which they can recommend, will be the appointment of capable and efficient commissioners, who shall be authorized to prepare and report to Congress such a code of laws as will be best suited to the wants, habits, and feelings, of the people; which code shall make as little innovation upon the common law, and upon the statute laws of the District, as shall be consistent with a perfect, simple, and uniform system, and which shall be rather a revision than a new code.

Let the most important branches be first prepared and presented to Congress, so that its action can be applied as the revision shall progress, without occupying too much time at any one period.

This is not a new suggestion. On the 29th April, 1816, Congress passed a law, which authorized the Judges of the Circuit Court and the Attorney for the District to prepare and digest a code of jurisprudence, both civil and criminal, for said District, to be submitted to Congress, and to be modified, altered, or adopted, as to them should seem proper; but no adequate compensation for expenses was made by the act.

Independent of the very questionable policy of imposing upon judges the duty of digesting a code of laws which they themselves were to interpret and administer, their other onerous official duties were incompatible with such a service. The consequence was, that all the Commissioners declined acting, except one of the judges, of extraordinary industry, who applied himself assiduously to the work, and reported a code to Congress, which was ordered to be printed, but was never adopted. How far this may assist the labors of any Commissioners which may be hereafter appointed, your committee are unable to judge.

In connexion with this subject, your committee beg leave to suggest the propriety of allowing the District to be represented by a Delegate in the House of Representatives, in the same manner as other Territories.

It has now a population which, in any of the States, would entitle it to a member of Congress, and greater than any of the Territories which are now thus represented. Let there be some link between the Government and the people governed: let some principle of representation be observed. Even the enjoyment of this limited political privilege would be considered, it is hoped, a valuable boon to the people, and produce salutary consequences. If, for their first Delegate, they should happen to choose one of the revisers of their laws, (should any be appointed) he might afford very useful and efficient aid in their passage.

After providing a bill for the appointment of Commissioners, your committee would be glad, for the present, to leave the subject; but there are some matters, of such pressing urgency, as cannot, with propriety, be delayed, and ought immediately to be presented to the consideration of the House.

A subject of the first importance is a criminal code, adapted to the new penitentiary, which your committee will propose in as simple a form as possible, and more with a view to temporary purposes than as a permanent system, which ought to fall under the mature consideration of the revisers.

The next subject of the most general interest relates to the courts of justice. In relation to this, as will be seen by the annexed papers, various schemes have been proposed; and without, at this time, undertaking distinctly to determine which is the best, your committee do not hesitate to say that some changes are absolutely demanded by every consideration arising from justice and propriety.

In lieu of the present iniquitous and oppressive system of Justices' Courts, it might be expedient to institute a monthly court in each city, to be composed of three or four gentlemen of talents and standing, who, individually, should be authorized to take confessions of judgments, and to issue process in litigated cases, returnable in court; that its jurisdiction should be considerable in civil cases, and that it should try all criminal cases not capital or punishable in the penitentiary. It is believed that such a court would be amply sufficient for all its legitimate purposes, and that, by abolishing the power of the present magistrates and constables, a great blessing would be conferred upon the community, and especially upon the poor.

In regard to a division of the power and duties of the Circuit Court, much greater difficulty arises, and greater diversity of opinion prevails. Independent of the different plans which are proposed to your committee, the following has been under their consideration: to erect a Court of Chancery, independently of the Circuit; transfer to the chancellor all the powers and duties of the judges of the Orphans' Court in both counties, in which he shall be obliged to hold a court monthly; that he should appoint a register in each county, who should not only perform the appropriate duties of a register in chancery, but also of the Orphans' Court, with, perhaps, some additional powers. This would be economical; and it is believed the chancellor would be fully competent to perform the duties proposed.

On the subject of trials by the judges of the Circuit Court, your committee are decidedly in favor of a *nisi prius* system.

It may be said that the measures proposed will involve considerable expense. What then? Can this local nondescript Government be sustained without expense? Certainly not. To whom else can the people look but to Congress?

Where else can they go, not only for the protection of their personal rights, (political they have few) but for aid in the promotion of learning, of science, and the arts—of domestic industry, and local improvements? In short, the same encouragement to all useful institutions and objects within the District, which a State Government ought to extend to similar institutions and objects within its own limits; not indiscreetly, and in profusion, but in that cautious, yet liberal manner, as will most economically and efficiently combine individual enterprise with public bounty for the general good. Here no constitutional scruples can operate: Congress has the power of exclusive legislation, and, therefore, justice and expediency are the only questions; and it is to the justice and wisdom of Congress, and Congress alone, to which this people can appeal for patronage and protection; and this appeal, it is believed, can never be made in vain.

Without further extending this report, your committee beg leave to conclude by saying that they will endeavor soon to prepare and present bills which shall embrace those subjects that appear to your committee of the greatest immediate importance, and most pressing urgency.

NOTE.—Several of the accompanying documents were received by the committee after this report was prepared, and just before it was presented to the House.